

**TOWN OF MARION
RULES & REGULATIONS FOR AQUACULTURE LICENSES**

Adopted by the Board of Selectmen - February 28, 1996

The Board of Selectmen may issue to an individual, group of individuals, or private company, a license to rear marine organisms under controlled conditions. Aquaculture license applications will be considered for approval on a first-come first-serve basis within the limitations of acceptable and available water space. Productive areas of Town flats and waters are exempt from consideration. The Board of Selectmen may issue a moratorium on the issuance of new aquaculture licenses at any time when this action is deemed appropriate and in the best interest of the Town. The issuance of an aquaculture license will be subject to the following conditions:

1. Applicants for aquaculture licenses must hold or meet the requirements to hold a commercial shellfish license in the Town of Marion. The aquaculture license will be forfeited if the licensee ceases to meet these requirements.
2. All applicants are required to complete and submit all information required on the Town's approved application form to the Town Clerk. A non-refundable application fee of \$50.00 (fifty dollars) payable to the Town of Marion shall be submitted at that time. Copies of the application will be forwarded to the Shellfish Subcommittee of the Marine Resources Commission, the Shellfish Officer, Harbormaster and the Conservation Commission for comment. The Board of Selectmen must decide to proceed or deny the application within sixty (60) days of receipt. Applications receiving favorable review by the Board of Selectmen shall be put forth for public hearing. At this time, the applicant may be required to notify all abutters of the proposed license area of the date, time, and place of the hearing. Public hearings may also be deemed necessary and held separately by the Conservation Commission and the U. S. Army Corps of Engineers.
3. Approval of any aquaculture license will be subject to all federal, state, and local laws, rules, and regulations. The prospective licensee will comply with all rules and regulations as set forth in Massachusetts General Laws Chapter 130, particularly Section 57, and Chapter 131, Section 40. Failure to comply with the aforementioned laws, rules, and regulations will be deemed cause to revoke the license.
4. Licenses will be issued for three (3) years. Subsequent three-year renewal permits may be granted by the Board of Selectmen.
5. The annual license fee of \$12.50 (twelve dollars and fifty cents) per one-half acre will be paid to the Town at the time the license is issued. Renewals will be due on or before 31 December of each year. If the fees are not paid within thirty (30) days of the due date, the aquaculture license shall be forfeited.
6. The initial area of the license shall not exceed one-half acre (22,000 square feet) and shall be confined to an area, and in a manner mutually beneficial to the Town of Marion and the license holder. Petitions for additional area in subsequent years will be considered upon favorable review by the Shellfish Officer and the Board of Selectmen.
7. No individual, group of individuals, or private company may hold more than one license.
8. Aquaculture licenses are issued for the exclusive use of the licensee who may contract or employ others to work the license site. Subleasing of the site or portion thereof is prohibited. Licenses may be transferred only with written approval from the Board of Selectmen and cannot be sold.

9. No license holder shall plant, place, or transplant shellfish in or on any water or flat within the Town without first obtaining the approval of the Shellfish Officer and, as needed, the Division of Marine Fisheries.
10. No license holder shall remove seed stock from the natural fisheries within the Town, for any purpose, including the stocking of licensed aquaculture sites without the written approval of the Shellfish Officer and the Division of Marine Fisheries.
11. License site boundaries must be marked on all corners by uniform stakes or buoys. These stakes or buoys shall bear the number of the license, said numbers not being less than two (2) inches in height. Each licensee shall obtain written confirmation from the Shellfish Officer that the license area is properly marked. All markers will be kept in legible repair by the licensee.
12. The license holder will assume all liability for all gear and tackle used on the license site. All mooring systems used to hold rafts, holding "cars", and/or other equipment are subject to Town Harbor Regulations, and must be approved by the Harbormaster. If any such gear is moved to a location off the site, it will be the responsibility of the license holder to remove it within twenty-one (21) days. Failing this, the gear will be removed by the Shellfish Officer and/or deputies at the expense of the license holder at a rate of \$25.00 (twenty-five dollars) per hour per man plus expenses.
13. When a license is discontinued or terminated for any reason, all gear and tackle will be removed from the waters and substrate within sixty (60) days. Failing this, the gear will be removed by the Shellfish Officer and/or deputies at the expense of the license holder at a rate of \$25.00 (twenty-five dollars) per hour per man plus expenses.
14. The Shellfish Officer and/or deputies shall have the authority to inspect the licensed area at any time and said inspection may include any and all containers on site. The Town of Marion reserves the right at any time to obtain samples of any species held in the licensed area for the purpose of certified testing for disease.
15. All subsequent changes to the plan of the original application and all additions of material investments (floats, barges, racks, trays, etc.) must be approved by the Shellfish Officer, Harbormaster, and the Board of Selectmen.
16. An annual review of each license will be conducted to determine reasonable production value or potential. If it cannot be shown by the licensee that a reasonable amount of product, as determined by the Shellfish Officer, has been produced on the site during the preceding year, the license may be forfeited. Consideration will be given for extenuating circumstances (i.e., hurricanes, disease, etc.).
17. A written progress report summarizing data on abundance, growth rates, and mortalities for each species present on the license site will be produced annually and submitted to the Shellfish Officer and the Board of Selectmen within sixty (60) days of the end of the year. The submission of annual reports will be a condition for continuance of the permit.
18. Upon request of the Shellfish Officer, the licensee will be required to produce documents showing purchase and sales slips stating the total amount of each species planted, produced, or marketed during the preceding year.
19. The licensee will assume all responsibility for personal injury and/or property damage as a direct result of operations.
20. The licensee shall not hold the Town of Marion liable for any damage or injury to the licensed area due to any dredging or improvements done in the best interest of the Town. Further, the Town of Marion shall not be held liable for loss or damage due to man-made or natural disasters.

21. If any provisions of these Rules and Regulations are declared invalid by any court or tribunal of competent jurisdiction, the remaining provisions of these Rules and Regulations shall not be affected thereby.
22. Violation of these Rules and Regulations subjects the licensee to review and possible revocation of the license at the discretion of the Board of Selectmen.